

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After 12/31/86 of Corporations that are members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

- a) In general. IITA Section 502(f) allows corporations (other than Subchapter S corporations) that are members of the same unitary business group to elect to be treated as one taxpayer for certain purposes including the filing of returns (combined returns) and the determination of the group's tax liability. Consequently, if an election under Section 502(f) is in effect, any Illinois net loss and Illinois net loss deduction of the unitary business group shall be determined as if the group were one taxpayer. If such an election is not in effect, any Illinois net loss and Illinois net loss deduction shall be determined separately on the facts shown on the separate corporate returns of each member of the group. In general, the Section 502(f) election will not affect total amount of net loss or net loss deduction that is available, but it may affect how quickly the loss is absorbed. In general, if an election is in effect, net losses are absorbed more quickly. The rules for determining a net loss or net loss deduction set forth in Sections 100.2310 through 100.2330 apply in the same manner whether or not such an election is in effect. If the business income of a unitary business group results in a loss, the amount of that loss will be the same whether or not a combined return is filed. If a combined return is not filed, any such loss will be apportioned among all members of the group based on each member's apportionment factors in Illinois as compared to their combined apportionment factors everywhere. This is illustrated by the following Example:

EXAMPLE: Assume that Corporation A and Corporation B constitute a unitary business group and there is no nonbusiness income or loss. Under the facts given below, if A and B file separate returns in 1986, using combined apportionment, A will have an Illinois net loss of \$100 and B will have an Illinois net loss of \$400, and if a combined return is filed, the group will report a combined Illinois net loss of \$500.

	Corp. A	Corp. B	Combined
Base Income (loss)	200	(1,200)	(1,000)
Business Income			(1,000)
Apport. % (sep. Ill./comb. everywhere)	10%	40%	

Apport. % (comb. Ill./comb. everywhere)			50%
Apportioned income (loss)	(100)	(400)	(500)
Illinois Net Income (loss)	(100)	(400)	(500)

- b) Determination of the amount of Illinois net loss. The election provided under IITA Section 502(f) may affect whether or not an Illinois net loss is incurred by particular members of the unitary business group if some members have nonunitary income or loss. This is illustrated in the following Example.

EXAMPLE: Assume that Corporation A and Corporation B constitute a unitary business group in 1986. Under the facts given below, if A and B file separate returns in 1986, using the combined apportionment method, A will have an Illinois net loss of \$170 and B will report Illinois net income of \$520. If a combined return is filed, the group will report combined Illinois net income of \$350.

	Corp. A	Corp. B	Combined
Base income			1,000
Nonbusiness loss	(300)		(300)
Business income			1,300
Apport. % (sep. Ill./comb. everywhere)		10%	40%
Apport. % (comb. Ill./comb. everywhere)			50%
Apportioned income	130	520	650
Nonbusiness loss allocable to Illinois	(300)		(300)
Illinois Net income (loss)	(170)	520	350

- c) Illinois net loss carrybacks and carryovers. The election provided in IITA Section 502(f) may affect the amount of Illinois net loss deduction that can be absorbed in a particular year. If a combined return is filed, any Illinois net loss deductions are combined and subtracted from combined Illinois net income, whereas if a separate return is filed, the Illinois net loss deduction of that member only would be subtracted from that member's separate Illinois net income. This is illustrated in the following Example.

EXAMPLE: Assume that Corporation A and Corporation B constitute a unitary business group, that in 1986 there is a \$170 Illinois net loss entirely attributable to Corporation A because Corporation B had no property, payroll, or sales in Illinois, and that the loss must be carried forward because of losses in prior years. Assume further that in 1987 both A and B have property, payroll and sales in Illinois. The separate and combined absorption of the loss in 1987 is illustrated below. Under the facts given, if A and B file separate returns, the \$170 Illinois net loss deduction will be recognized on A's return only, and A will have a \$70 net loss carryover to 1988. B will have to pay tax on net income of \$400. If a combined return is filed in 1987, the \$170 Illinois net loss from 1986 will be fully absorbed in 1987, and the combined group will pay tax on combined net income of \$330.

	Corp. A	Corp. B	Combined
Base income			1,000
Business income			1,000
Apport. % (sep. Ill./comb. everywhere		10%	40%
Apport. % (comb. Ill./comb. everywhere)			50%
Apportioned income	100	400	500
Net loss deduction	(170)		(170)
Net income (loss)	(70)	400	330

(Source: Added at 11 Ill. Reg. 17782, effective October 16, 1987)